

Forty Cents (\$134.40) plus one gallon of paint, for which no cost was given. This amount does not support the judgment amount. The Plaintiff, if entitled to recover at all, may not have judgment for a greater amount than is shown by his proof. The judgment amount must conform to the evidence.

JUDGMENT

The judgment in the District Court for the Palau District Civil Action No. 1174, is set aside and the case referred back to that court for a new trial, subject to the following directions:—

(a) The judge who originally heard the case is to reopen it and take any additional proper testimony either side wishes to offer, but he is also to consider the testimony already in the record without its being reintroduced.

(b) After taking such additional testimony, he shall finish the trial as if no previous judgment had been entered; shall allow the usual opportunity for argument; and shall enter a new judgment consistent with the opinion herein.

VIKTOR KELLER, Plaintiff

v.

TOMISIANO MARTIN, Defendant

Civil Action No. 232

(Formerly Ponape District Civil Action No. 328)

Trial Division of the High Court

Mariana Islands District

November 24, 1967

Hearing on application for writ of habeas corpus. The Trial Division of the High Court, E. P. Furber, Chief Justice, dismissed application as counsel for plaintiff had presented his notice of appeal and had secured stay of sentence pending appeal.

NGODRII v. KUMAICHI

Assessor: JUDGE IGNACIO V. BENAVENTE
Counsel for Plaintiff: ROGER L. ST. PIERRE, ESQ.
Counsel for Defendant: JOHN D. MCCOMISH, ESQ.

FURBER, *Chief Justice*

This Application for Writ of Habeas Corpus came on to be heard before me this day at Susupe, Saipan, Mariana Islands.

Counsel for the plaintiff stated that he had decided to appeal from the conviction in the Ponape District Court, under which the plaintiff was being held to serve sentence, and apply for stay of sentence pending appeal instead of pressing the Application for Writ of Habeas Corpus, and therefore requested that this action be continued to await the outcome of the appeal in the criminal case.

Counsel for the defendant objected to such continuance and requested that this action be either dismissed or heard on its merits promptly.

Counsel for plaintiff presented his notice of appeal in the criminal case and secured stay of sentence pending appeal. Further discussion was held with counsel, as a result of it was

Ordered that the above-entitled action be and it is hereby dismissed.

SANTOS NGODRII, Plaintiff

v.

ROBERT KUMAICHI and REKESUK KUMAICHI, Defendants

Civil Action No. 384

Trial Division of the High Court

Palau District

December 18, 1967

Action to determine property rights between divorced spouses. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where *olmesumech* and food money were paid to and accepted by former